

# SENATE BILL REPORT

## SB 5818

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As of February 13, 2009

**Title:** An act relating to disclosure of production and export information on patented or trademarked apples.

**Brief Description:** Regarding the disclosure of production and export information on patented or trademarked apples.

**Sponsors:** Senator Honeyford.

**Brief History:**

**Committee Activity:** Agriculture & Rural Economic Development: 2/12/09.

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Staff:** Sam Thompson (786-7413)

**Background:** The state Public Records Act (PRA) requires state agencies and local government entities to disclose records, subject to several exemptions. Certain private-sector financial and commercial information relating to agriculture is exempt from disclosure, including:

- consignment information in animal and plant inspection certificates;
- certain information relating to commodity commissions; and
- information concerning particular businesses in certificates of compliance for inspection of fruit and vegetables.

**Summary of Bill:** Exemptions from disclosure under the PRA relating to agriculture are revised to provide that information about production and export of patented or trademarked apples must be provided upon request to holders of the patents or trademarks to verify production and export volumes, but not for other commercial purposes.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This legislation is necessary to enable patent or trademark holders to enforce licensing agreements. The holder of rights to Pink Lady apples needs this legislation to access production and export information held by the state to enable it to effectively manage the brand. Legislation enacted in 2007 inappropriately shut down access to the information. Those who seek access to the information will not use it for competitive advantage.

CON: This legislation does not appropriately solve the proponent's problem, which would be better addressed through private contract provisions. The legislation's limitation on use of the information would be difficult to enforce, and the information could be used for competitive advantage. Holders of rights to other patented apple varieties in Washington don't need this legislation.

**Persons Testifying:** PRO: Senator Honeyford, prime sponsor; Lynnell Brandt, E.W. Brandt & Sons, Inc.

CON: Jim Halstrom, Washington State Horticultural Association.